

REMARKS

Introduction

Claims 1 - 12 were originally pending in the PCT application to which this application claims priority. On September 20, 2000, in a paper submitted to the International Preliminary Examining Authority at the European Patent Office, claim 11 was cancelled. Also, claim 12 was canceled by way of a Preliminary Amendment filed April 3, 2001. Accordingly, claims 1 - 10 are presently pending in this application.

Claim Rejections

35 U.S.C. §102

Claims 1-5, 7-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Arai et al. '326 patent. Each of these claims were also independently rejected under §102(b) as being anticipated by the Quinian et al. '754 patent. In addition, claims 1-2, 5, 7-8, 11 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Krohm '616 patent. Also, claims 1-2, 5, and 7-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Quinian et al. '395 patent. A claim is said to be anticipated where each and every limitation of the claim can be found in a single prior art reference. In this case, applicant respectfully submits that both of independent claims 1 and 2 describe an invention that includes limitations that are neither disclosed nor suggested by the Arai et al., Krohm, or Quinian et al. patents. Claims 3-5, 7-10 are each ultimately dependent upon either independent claim 1 or independent claim 2 and include perfecting limitations. Accordingly, applicant respectfully traverses these rejections based on 35 U.S.C. § 102(b) and requests that they be withdrawn for the reasons set forth below.



**The Drawings of the Arai et al., Krohm, and Both Quinian et al.
Patents Are Not to Scale and Cannot be Properly Relied Upon
To Support a Rejection of Independent Claims 1 and 2.**

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Claim 1

As noted above, claim 1 was rejected under §102 as being anticipated by the Arai et al., Krohm, and both Quinian et al. patents. In support of the rejection, the Examiner measured the spacing distance S and the length of the backbone L from the figures of the Arai et al., Krohm, and both Quinian et al. patents. Based on these measurements, the Examiner asserts that the wipers disclosed in each of the Arai et al., Krohm, and both Quinian et al. patents meet the criteria defined in independent claim 1. Applicant has reviewed these calculations, but must respectfully disagree. None of the Arai et al., Krohm, and Quinian et al. patents disclose or suggest a wiper having a spacing distance, S , falling within the range of $0.1L$ and $0.35L$. As such, the wipers disclosed in each of the Arai et al., Krohm, and both Quinian et al. patents do not apply improved pressure distribution across the length of the wiper similar to those constructed according to claim 1 of the patent application.

Nevertheless, even if the physical measurements taken from the drawings of the the Arai et al., Krohm, and both Quinian et al. patents met the criteria of claim 1, a rejection based on measurements taken from a patent drawing would still be improper. This is because patent drawings are generally not made to scale and include no dimensions. When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurements of the drawings are of little value. MPEP §2125.

“[I]t is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.” Hockerson-Halberstadt, Inc. v. Avia Group Int'l, 222 F.3d 951, 956 (Fed. Cir. 2000).

None of the drawings of any of the references include dimensions. In support of the rejection, the Examiner does not cite where the references state that the drawings are to scale. Applicant has reviewed each of these references and found that there is no mention in the Arai et al., Krohm, and Quinian et al. patents that the drawings are to scale. This makes sense since the wiper systems disclosed in each of the references would not be functional or practical if they were actually manufactured at the scale shown in the figures. In view of these facts and the controlling authority, applicant respectfully submits that the dimensional measurements of the wipers shown in the drawings of the the Arai et al., Krohm, and both Quinian et al. patents may not be relied upon in support of the contention that the patents disclose a windscreen wiper having a spacing distance dimension, S , falling within the range of $0.1L$ and $0.35L$. MPEP §2125. Thus, applicant respectfully submits that the the Arai et al., Krohm, and both Quinian et al. patents do not anticipate or render obvious the invention described in claim 1 of the patent application.

Claim 2

Like in the case of claim 1, claim 2 was similarly rejected under § 102 as being anticipated by the Arai et al., Krohm, and both Quinian et al. patents. In support of the rejection, the Examiner measured the spacing distance S and the length of the backbone L from the figures of the Arai et al., Krohm, and both Quinian et al. patents. Based on these measurements, the Examiner asserts that the wipers disclosed in each of the Arai et al., Krohm, and both Quinian et al. patents meet the criteria defined in independent claim 2. Applicant has reviewed these calculations but must respectfully

disagree. None of the Arai et al., Krohm, and Quinian et al. patents disclose or suggests a wiper having a ratio, R , of the spacing distance, S , and the total length, L , falling within the range of 0.1 and 0.35. As such, the wipers disclosed in each of the Arai et al., Krohm, and both Quinian et al. patents do not apply improved pressure distribution across the length of the wiper similar to those constructed according to claim 2 of the patent application.

Nevertheless, and as noted above with respect to claim 1, even if the physical measurements taken from the drawings of the Arai et al., Krohm, and both Quinian et al. patents meet the criteria of claim 1, a rejection based on measurements taken from a patent drawing would still be improper. This is because patent drawings are generally not made to scale and include no dimensions. When the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurements of the drawings are of little value. MPEP §2125.

As noted above, none of the drawings of any of the references includes dimensions. Applicant has reviewed each of these references and found that there is no mention in any of the Arai et al., Krohm, and Quinian et al. patents that the drawings contained therein are to scale. In view of these facts and the controlling authority, applicant respectfully submits that the dimensional measurements of the wiper shown in these references may not be relied upon in support of the contention that the patents disclose a windscreen wiper having a ratio, R , of the spacing distance dimension, S , and the total length, L , falling within the range of 0.1 and 0.35. Thus, applicant respectfully submits that the Arai et al., Krohm, and both Quinian et al. patents do not anticipate or render obvious the invention described in claim 2 of the patent application.

In addition to the deficiencies of the drawings of the Arai et al., Krohm, and both Quinian et al. patents with respect to claims 1 and 2 as discussed above, these references fail to anticipate the teachings of claims 1 and 2 for other reasons.

For example, the Krohm '616 patent discloses a wiper having a backbone 6 with a force applying member 3 connected to the backbone 6 at two spaced apart points. However, the Krohm '616 patent does not disclose or suggest a curved backbone as is set forth in claims 1 and 2 of the patent application. The backbone in the Krohm '616 patent is straight and intended for wiping a flat windscreen, and it is ineffective in achieving improved pressure distribution over the length of the wiper as the wiper is moved over a curved windscreen.

Similarly, the Krohm '616 patent does not disclose or suggest a backbone that is made of a resiliently flexible material as is required in claims 1 and 2 of the patent application. As such, the wiper of the Krohm '616 patent does not achieve improved pressure distribution over the length of the wiper as it is moved over a curved windscreen.

Thus, for all the reasons set forth above, applicant respectfully submits that neither the Krohm '616 patent nor any of the other references anticipate or render obvious the invention described in claims 1 and 2 of the patent application.

Dependent Claims 3 - 5, 7 - 10 Not Anticipated by Prior Art

Claims 3-5, 7-10 are all ultimately dependent upon either independent claim 1 or independent claim 2 and add further perfecting limitations thereto. Accordingly, applicant respectfully submits that none of the cited prior art patents anticipates or renders obvious the invention described in claims 3-5, 7-10 of the patent application.

35 U.S.C. § 103

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Arai '326 patent, the Krohm '616 patent, the Quinian '395 patent, and the Quinian '754 patent, all in view of the Swanpoel '650 patent. Additionally, claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over the Arai '326 patent, the Krohm '616 patent, the Quinian '395 patent, and the Quinian '754 patent, all in view of the Appel '551 patent. Claim 6 is ultimately dependent upon independent claim 1 and adds further perfecting limitations. In this case, applicant respectfully submits that dependent claim 6 describes an invention that includes limitations that are neither disclosed nor suggested by the cited references standing alone or by a combination of the cited references. Accordingly, applicant respectfully traverses this rejection based on 35 U.S.C. § 103(a) and requests that it be withdrawn for the reasons set forth above with respect to claim 1.

Claim 11

Claim 11 was cancelled on September 20, 2000 in a paper submitted to the International Preliminary Examining Authority at the European Patent Office. Therefore, since claim 11 is no longer pending in this U.S. application, applicant respectfully submits that the rejection of claim 11 was unnecessary.

The Windscreen Wiper Assembly of the Present Invention

In contrast to the prior art, the windscreen wiper of the present invention as defined in independent claim 1 is directed toward a windscreen wiper having an elongate, curved backbone

made out of a resiliently flexible material. A force applying member is connected to the backbone at two spaced apart points. Spacing distance, S , between the points falls within a range between $0.1L$ and $0.35L$, where L is the total length of the backbone, and both S and L are expressed in millimeters. The curved shape of the backbone, the resiliently flexible material of the backbone, and the disclosed range of S allows the windscreen wiper of the present invention to achieve improved pressure distribution across the length of the wiper.

In another aspect, the present invention as defined in independent claim 2 is directed toward a windscreen wiper having an elongate, curved backbone made out of a resiliently flexible material. A force applying member is connected to the backbone at two spaced apart points. A ratio, R , of the spacing distance, S , to the total length of the backbone, L , falls within a range between 0.1 and 0.35 , where S and L are expressed in the same unit of measure. The curved shape of the backbone, the resiliently flexible material of the backbone, and the disclosed range of R allows the windscreen wiper of the present invention to achieve improved pressure distribution across the length of the wiper.

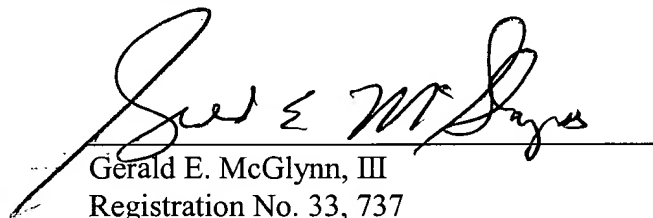
Conclusion

Independent claims 1 and 2 each recite structure that is not disclosed or suggested by the prior art and are patentably distinguishable from the subject matter of the referenced discussed above. Claims 2 - 10 are all ultimately dependent upon either independent claim 1 or 2, respectively and add further perfecting limitations. Applicant respectfully submits that the prior art references, alone or in combination, do not disclose or suggest the present invention. However, and even if they did, they could only be applied through hindsight after restructuring the disclosures of the prior art in

view of the applicant's invention. Accordingly, applicant respectfully solicits the allowance of the claims pending in this case.

Over and above the substantive merits of the patentability of the pending claims, attorney for applicant has noted a housekeeping matter related to form. Specifically, it was noted that the pending claims may be out of order in that the dependent claims are not grouped together with the claim or claims to which they refer. Applicant is willing to re-order the claims if the Examiner is so inclined. For example, if necessary, applicant is willing to group independent claim 2 and claims dependent upon it (i.e., claim 4) after the grouping of independent claim 1 and claims dependent upon it (i.e., claims 3, 5-10). The Examiner is encouraged to make any amendment that she sees fit in order to properly group these claims. In addition, if the examiner has any questions or would like to discuss any of the matters set forth above, the Examiner is encouraged to contact undersigned counsel at the telephone number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald E. McGlynn, III", is written over a horizontal line.

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